IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 626 OF 2006

IN

STAMP NUMBER (APPLN.) NO. 2336 OF 2006

M/S. ALCON RESORT HOLDINGS PVT. LTD., PANAJI - GOA. ....Applicant

Versus

AIRPORTS AUTHORITY OF INDIA AND ANR., ...Respondents

Mr.V. B. Nadkarni, Senior Advocate with Mr. Y. V. Nadkarni, Advocate for the Applicant.
Mr. S. K. Kakodkar, Senior Advocate with Mr. S. D. Padiyar, Advocate for the Respondents.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 20th November, 2006

P.C.:-

Heard.

This is an application filed by the respondents seeking condonation of delay for filing cross objection. The reason given by the respondents for delay in filing cross objection is that as the respondents were advised in Income Tax proceedings by the learned Counsel engaged by them to prefer a counterclaim they have decided to do so. The delay is about 57 days in filing the Memorandum of Cross Objection.

The application is strongly opposed by the other side on the ground that the respondent who has sworn in an affidavit explaining the delay has been an Advocate and the reasons given for causing the delay besides the advice received by them from the learned Counsel in Income Tax matters are casual in nature and should not be considered as good and sufficient reason and in such cases the law of limitation would be set at naught if

any latitude is shown to the applicant/respondent.

We have considered the rival contention made by the learned Counsel appearing in the matter and we find that in the peculiar facts and circumstances and particularly when it is a Cross Objection the Court should be liberal in the matter and the delay can be condoned subject to awarding substantial costs to the other side. It should sufficiently compensate the appellant for the inconvenience to which he has been put by the Cross Objection filed by the respondents.

We therefore condone the delay with a condition that the respondents shall pay a sum of Rs.25,000/- as costs to them within a period of four weeks. Payment of costs will be condition precedent.

J. N. PATEL, J.

N. A. BRITTO, J.

RD.